

IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL APPEAL NO. 39 OF 2002.

State of Goa
through the Range
Forest Officer,
Sanguem, Goa.

... Appellant.

Versus

M/s. Good Earth Plantation
& Farms Pvt. Ltd., 2nd Floor,
Aguiar Building, Ponda, Goa,
represented by:-

1. Smt. Valsa Mathai,
r/o Vinayak Bandekar
Building, Altinho, Panaji.
2. Smt. Sheela Cherian,
r/o 2nd Floor, Aguiar
Building, Ponda, Goa.
3. Smt. Lata John, r/o
Villa Samira, Santa
Cruz, Ponda, Goa.
4. Smt. Shanti Ramakant
Shirodkar, r/o
Ribandar, Goa.
5. Smt. Jayashri Ganapathi
r/o Tisk, Ponda, Goa.
6. Shri T.J. John,
r/o Villa Samira,
Ponda, Goa.

... Respondents.

Mr. V.P. Thali, Addl. Advocate General for the Appellant
State.

Mr. A.D. Bhobe, Advocate for the Respondents.

Coram: P.V. HARDAS, J.

Date: 19th September 2002.

ORAL JUDGMENT.

This appeal has been filed by the State of Goa challenging the Judgment passed by the J.M.F.C., Sanguem, in Criminal Case No. 82/P/91 acquitting the respondents 1, 2, 3, 4 and 6 for an offence under Section 8 of the Preservation of Tree Act, 1984

punishable under Section 25 of the said Act. Notice was issued to the respondents and it transpired that respondent no. 5 had died during the pendency of the trial and, therefore, the name of the respondent no. 5 is deleted from the Memorandum of Appeal. The present appeal is a composite application for leave and also for setting aside the Order of acquittal.

2. By consent of parties, this appeal is taken up for final disposal at the stage of admission.

3. I have heard Mr. Thali, the learned Additional Advocate General for the appellant State and Mr. Bhobe, learned counsel appearing for the respondents.

4. The learned trial Court has held that the licence, Exhibit P.W.1/E was issued for felling 150 trees in Survey No. 4/1. The learned trial Court has found the contention of the prosecution that there were only 20 trees in an area of 1 hectare as untenable, as it was an admitted fact that all the trees to be cut were numbered with red paint after verification of the same. The verification was initially done by the Round Forester and thereafter by the R.F.O. and it was after this verification that the licence was granted. It is in this background, therefore, the learned trial Court

found that the evidence in respect of the licence at Exhibit P.W.1/E and the contention of the prosecution that only 20 trees had been legally cut and 122 trees had been cut illegally was fanciful and was not established by the prosecution. From paragraph 12 onwards the learned trial Court has appreciated the evidence of the prosecution witnesses.

5. In respect of P.W.1 Anil Shetgaonkar, the learned trial Court has observed that he was a formal witness as he was not a R.F.O., at the relevant time. The learned trial Court has also observed that Shri Suhas Vastha and Shri Bidi, who were the R.F.Os., at the relevant time, had not been examined by the prosecution. The prosecution had examined Shri Ramesh Dessai, who was a R.F.O. prior to P.W.1 Anil Shetgaonkar. P.W.1 has also admitted that the site was inspected by R.F.O. Shri Suhas Vastha, who had submitted a report. After receipt of the report, the licence had been granted to the accused to cut the trees. The licence had been granted to cut 150 trees, but the accused had felled only 142 trees. Exhibit P.W.1/D Colly is the sketch map, which had been produced by the accused, showing the trees to be cut. P.W.1 has further admitted in cross-examination that the licence to transport the felled trees is granted only after verifying the stumps, the logs and the log measurement book. According to the

learned trial Court, the prosecution witness has admitted that the logs and the material attached were all bearing the forest stamps. The prosecution witness has also admitted that the cut material was duly recorded in the log measurement book. On the basis of this, the learned trial Court arrived at the conclusion that the material attached in the case was legally cut.

6. In respect of P.W.2 Ramesh Dessai, the learned trial Court observed that he was a formal witness. He had only forwarded the papers to the D.C.F.. In respect of the evidence of the Forest Guard Antonio Pereira P.W.3, the learned trial Court has observed that he had only booked the offences as per the directions of his superiors. In respect of the evidence of P.W.3, the trial Court has reproduced the admission which reads:- "It is true that the number of trees shown in both the Exhibits P.W.1/A and P.W.1/B include the trees which were licensed for felling by the accused".

7. In respect of P.W.4 panch witness Shri Rama Deo Velip, the learned trial Court has observed that he has admitted that all the logs bore the forest hammer marks. The learned trial Court found a discrepancy in the evidence between P.W.4 and P.W.5 Silvestre Luis. He has admitted that the logs and the fire wood were not counted in his presence. In that background, the

learned trial Court found that the panchanama and the evidence of the panch witnesses were not reliable.

8. In respect of P.W.6 the Round Forester Shri Rama Rane, the learned trial Court has observed that he has admitted that he had prepared the panchanama of the logs which were cut and recorded in the log measurement book and that all the logs were having the hammer marks. He also admitted that the material which was cut by the accused was as per the licence.

9. In this backdrop, therefore, the learned trial Court found that the prosecution had failed to prove that the accused had cut any tree beyond the licence granted. I have perused the Order of the learned trial Court and I have heard the learned counsel for the parties. The view taken by the learned trial Court is a reasonable view based on the evidence on record and there is no perversity in the reasoning of the learned trial Court. The learned trial Court has given benefit of doubt to the accused and has acquitted them. No case is made out for interference in an appeal against acquittal. The present appeal is devoid of any merit and deserves to be dismissed.

10. Criminal Appeal is, accordingly, dismissed.

(P.V. HARDAS)
JUDGE.

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